

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: AMERICAN MEDICAL SYSTEMS, INC.
PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION MDL No. 2325

IN RE: BOSTON SCIENTIFIC CORP. PELVIC
REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION MDL No. 2326

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION MDL No. 2327

THIS DOCUMENT RELATES TO ALL CASES

**APPLICATION OF DAVID B. ALLEN FOR APPOINTMENT
TO THE PLAINTIFFS' STEERING COMMITTEE**

COMES NOW attorney, David B. Allen, of the law firm, Cohen and Malad, LLC, who respectfully files this Application for appointment as a member of the Plaintiffs' Steering Committee (PSC) in the MDL proceedings pursuant to Pretrial Order Number 1 and states as follows:

On March 19, 2012, Plaintiffs' Proposed Counsel Organization Structure for MDLs 2325, 2326 and 2327 (Proposed Plan) was submitted to the Court by Lead Counsel Henry G. Garrard, III., and Fred Thompson, III., and Bryan F. Aylstock. I have reviewed the Proposed Plan and join the recommendations made to the Court therein.

I have been exclusively practicing Plaintiffs' medical negligence and/or medical devices/drug/mass tort law since 1996. Most recently, I have been involved in the litigation of the Pain Pump cases nationally, including representing Plaintiffs in the *In Re: Infusion Pumps* JCCP 4615, California State Court, County of Orange (JCCP 4615). During the last three years

of my practice I have devoted much of my time to the national pain pump litigation wherein I have represented over one hundred (100) Plaintiffs. I have been admitted Pro Hac Vice in many federal districts, and state courts, around the country prosecuting cases against the various manufacturers of pain pumps, including I-Flow, Breg, Don Joy, Stryker and McKinley. I have argued motions in a number of federal districts and some state courts as well. I have deposed a number of defendant representatives, expert witnesses and treating physicians as part of the litigation. My firm is a founding member of the Pain Pump Consortium of Plaintiffs' lawyers comprised of lawyers from around the country. I have prepared cases for trial only to have the cases settle as late as the morning of trial. I was also involved in document review and development of Discovery protocols in the coordinated pain pump litigation against multiple defendants. I have handled numerous medical device and drug cases, including Vioxx cases, Medtronic Lead cases, Pain pump cases, Johnson & Johnson Convex Concave heart valve cases, and my firm is currently handling Pradaxa cases, Propecia cases, Zimmer NexGen knee prosthesis cases and Yaz and Yasmin cases, among others.

I am member of the Indiana State Bar, the Northern (pending) and Southern Districts of Indiana, the District of Colorado, Indiana Trial Lawyers Association, American Association of Justice, and the Indianapolis Bar Association. I have published numerous articles in various state publications related to litigation of medical negligence cases, the Indiana Insurance Guaranty Association and the Peer Review Privilege.

I am currently involved in the mesh litigation as co-counsel with Henry Garrard, III of the Blasingame Burch Garrard and Ashley, PC Law firm. Mr. Garrard and I currently have several hundred cases under investigation, as well as cases on file against all manufacturers. I continue to develop new clients and investigate surgical vaginal mesh cases. I became involved in the pelvic repair mesh litigation during the Mentor ObTape MDL (MDL 2004) and have been

investigating and screening pelvic repair mesh cases since that time. I am also involved in an historic medical negligence litigation in Indiana involving unnecessary sinus surgeries performed by Mark Weinberg, M.D.. My firm has nearly three hundred (300) of those cases which are proceeding individually against Weinberger. Weinberger fled the country after converting all his assets to diamonds. He disappeared from Greece while on Holiday, abandoning his active Otolaryngology practice and all his patients. He was pursued by the FBI and InterPol for five and one half years before being apprehended in the Italian Alps trying to make safe passage to Switzerland. He was extradited and returned to Indiana and is currently being held in Federal Prison awaiting disposition of nearly two dozen criminal charges.

Cohen & Malad, LLC is ideally situated to benefit the PSC in this MDL because of its leadership role in the national pain pump litigation and its prominent role in several historic class action suits including, *In re Holocaust Victims Assets Litigation*, *In re Bridgestone/Firestone, Inc., ATX, ATX II and Wilderness Tires Products Liability Litigation*, *In re Guidant Corp Implantable Defibrillators Products Liability Litigation*, *In re Ready-Mixed Concrete Antitrust Litigation* and *In re Iowa Ready-Mix Concrete Antitrust Litigation*. Cohen & Malad possesses extensive resources to vigorously prosecute these claims on any scale; and, as a proposed member of the PSC I have both the time and knowledge/skill needed to participate in this litigation. I am also willing and able to commit to time consuming projects. I maintain the ability to work cooperatively with others, as demonstrated in the nationally coordinated efforts in the pain pump litigation, and I have the professional experience in this type of litigation that would benefit the PSC and all claimants.

Respectfully submitted,
COHEN & MALAD, LLP

By: /s/ David B. Allen
David B. Allen, #18997-55
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I CERTIFY that I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing of this document on the 30th day of March, 2012.

/s/ David B. Allen
David B. Allen